

ESTTA Tracking number: **ESTTA377516**

Filing date: **11/08/2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92051860
Party	Defendant Michael Akkawi
Correspondence Address	MICHAEL AKKAWI 8 PLUM HOLLOW ROAD EAST FALMOUTH, MA 02536 UNITED STATES mikeakka@verizon.net, miltonoliver@ieee.org
Submission	Other Motions/Papers
Filer's Name	Milton Oliver
Filer's e-mail	miltonoliver@ieee.org, mikeakka@verizon.net
Signature	/Milton Oliver/
Date	11/08/2010
Attachments	CAPE-COD-WATCH-Answer-to-Amended-Petition-21sep2010.pdf ( 4 pages ) (200596 bytes ) RESP-SHOWING-of-CAUSE-for-WITHDRAWAL-of-DEFAULT.pdf ( 3 pages ) (54774 bytes ) BAUM-Received-ANSWER-to-AMENDED-PETITION.pdf ( 1 page )(72333 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Registration No.: 3,433,601  
Mark: CAPE COD WATCH

La Montre Hermès S.A.,

Petitioner,

vs.

MICHAEL AKKAWI,

Registrant.

Cancellation No.: 92-051 860

RESPONDENT'S ANSWER TO FIRST  
AMENDED PETITION FOR CANCELLATION

Respondent hereby answers the Petition for cancellation as follows:

1. Respondent admits: that since long prior to Registrant's first use of the mark CAPE COD WATCH, Petitioner has sold watches under various marks, in the United States and elsewhere; Registrant currently lacks sufficient information with respect to the remaining allegations of Paragraph 1 of the First Amended Petition, and therefore denies the same.

2. Respondent denies the allegations of Paragraph 2 of the First Amended Petition.

3. Respondent denies the allegations of Paragraph 3 of the First Amended Petition.

4. Respondent admits that Petitioner has sold watches in the United States under the purported mark CAPE COD 2 ZONES, but has not yet conducted sufficient discovery to test the allegations of Paragraph 4, and therefore denies the remaining allegations of Paragraph 4.

5. Respondent admits that US Reg. No. 2,753,802 is found on the US trademark register and that a section 15 affidavit appears to have been accepted, according to the TARR database, but Respondent lacks sufficient information to verify the remaining allegations of Paragraph 5, and therefore denies the same.

6. Respondent admits the allegations of Paragraph 6 of the First Amended Petition.

7. Respondent admits that Registrant manufactures Registrant's goods in Massachusetts, and that Registrant and Registrant's licensee Hannoush Jewelers of Cape Cod sell the goods in Falmouth and Hyannis, Massachusetts to residents of Massachusetts and of other states. Respondent admits that Registrant maintains a website on which watches bearing Registrant's mark appear. Respondent denies the remaining allegations of Paragraph 7 of the First Amended Petition.

8. Respondent denies the allegations of Paragraph 8 of the First Amended Petition.

9. Respondent denies the allegations of Paragraph 9 of the First Amended Petition.

10. Respondent denies the allegations of Paragraph 10 of the First Amended Petition.

11. Respondent denies the allegations of Paragraph 11 of the First Amended Petition.

12. Respondent denies the allegations of Paragraph 12 of the First Amended Petition. Respondent considers that watches composed primarily of precious metals are a species of jewelry. Respondent considers that watches are a species of clock, namely a clock worn on the wrist. In any case, Respondent specifically denies that he ever had an intention to commit fraud or to otherwise mislead the US Patent & Trademark Office about the goods he has sold in commerce.

WHEREFORE, Respondent prays that the Petition for Cancellation be dismissed.

Respectfully submitted,

DATE: SEP 20, 2010

/m.akkawi /

Michael Akkawi  
8 Plum Hollow Road  
East Falmouth MA 02536  
TEL: 774-238-0202

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a PDF copy of RESPONDENT'S ANSWER TO FIRST AMENDED PETITION FOR CANCELLATION was served on SEP. 21, 2010 via email to Petitioner's counsel, Andrew Baum, Esq. of FOLEY & LARDNER at the email address: abaum@foley.com.

Milton Oliver

Milton Oliver

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Registration No.: 3,433,601  
Mark: CAPE COD WATCH

La Montre Hermès S.A.,

Petitioner,

vs.

MICHAEL AKKAWI,

Registrant.

**Cancellation No.: 92-051 860**

RESPONDENT'S SHOWING  
OF CAUSE FOR WITHDRAWAL OF DEFAULT

Respondent hereby acknowledges the Notice of Default mailed OCT. 7, 2010. Respondent did, in fact, on SEP. 21, 2010 serve an Answer to Petitioner's Amended Petition for Cancellation on Petitioner, via email, and a copy of the receipt from Petitioner's counsel, Andrew Baum, is submitted herewith. A copy of the Answer was simultaneously sent via first-class mail to the Trademark Trial & Appeal Board, and Respondent is surprised that this paper was apparently not received by the Board.

Respondent is currently working on further responses to  
Petitioner's discovery requests, and expects to submit those further  
responses within the next two weeks.

Respectfully submitted,

DATE: NOV. 8, 2010

Michael Akkawi  
by his attorney

/Milton Oliver/  
OLIVER INTELLECTUAL PROPERTY  
PO BOX 1670  
COTUIT MA 02635

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a PDF copy of RESPONDENT'S SHOWING OF CAUSE FOR WITHDRAWAL OF DEFAULT was served on NOV. 8, 2010 via email to Petitioner's counsel, Andrew Baum, Esq. of FOLEY & LARDNER at the email address: abaum@foley.com.

/Milton Oliver/

Milton Oliver



**Milton Oliver**

---

**From:** Baum, Andrew [ABaum@foley.com]  
**Sent:** Tuesday, September 21, 2010 6:23 PM  
**Subject:** Read: Your ref. 093012-7000; HERMES vs. AKKAWI; our ref 872-026-001

Your message

To: Baum, Andrew  
Cc: Marmo, Elizabeth  
Subject: Your ref. 093012-7000; HERMES vs. AKKAWI; our ref 872-026-001  
Sent: Tue, 21 Sep 2010 17:55:33 -0400

was read on Tue, 21 Sep 2010 18:22:43 -0400

The preceding email message may be confidential or protected by the attorney-client privilege. It is not intended for transmission to, or receipt by, any unauthorized persons. If you have received this message in error, please (i) do not read it, (ii) reply to the sender that you received the message in error, and (iii) erase or destroy the message. Legal advice contained in the preceding message is solely for the benefit of the Foley & Lardner LLP client(s) represented by the Firm in the particular matter that is the subject of this message, and may not be relied upon by any other party.

Internal Revenue Service regulations require that certain types of written advice include a disclaimer. To the extent the preceding message contains advice relating to a Federal tax issue, unless expressly stated otherwise the advice is not intended or written to be used, and it cannot be used by the recipient or any other taxpayer, for the purpose of avoiding Federal tax penalties, and was not written to support the promotion or marketing of any transaction or matter discussed herein.